

108TH CONGRESS  
2D SESSION

# H. RES. 576

Urging the Government of the People's Republic of China to improve its protection of intellectual property rights, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 24, 2004

Ms. WATSON (for herself, Mr. LANTOS, and Mr. HYDE) submitted the following resolution; which was referred to the Committee on International Relations

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## RESOLUTION

Urging the Government of the People's Republic of China to improve its protection of intellectual property rights, and for other purposes.

Whereas on December 11, 2001, the People's Republic of China acceded to the World Trade Organization (WTO) and agreed to implement a set of sweeping reforms designed to protect intellectual property rights under the terms of its accession;

Whereas the accession by China to the WTO included the adoption by China of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement), which establishes minimum standards for intellectual property rights to be provided by each WTO member

and certain general principles applicable to all intellectual property rights enforcement procedures;

Whereas following its accession to the WTO and adoption of the TRIPS Agreement, China initiated a series of measures and a comprehensive review of its intellectual property rights laws to bring itself in compliance with international standards in patent, trademark, copyright, trade secret, and other intellectual property laws;

Whereas central and local Chinese Government officials continue to work with their counterparts in the United States to improve China's intellectual property rights enforcement through regular bilateral discussions, roundtable meetings, and numerous technical assistance programs;

Whereas China has initiated campaigns to seize illegal and pirated goods, closed or fined several assembly operations for illegal production lines, seized millions of illegal audio-visual products, and expanded training of law enforcement officials relating to intellectual property rights protection;

Whereas although China has made significant improvements to its framework of law, regulations, rules, and judicial interpretations regarding intellectual property rights, its intellectual property rights enforcement mechanisms still face major obstacles, which have resulted in continued widespread piracy and counterfeiting of film, recorded music, published products, software products, pharmaceuticals, chemical products, information technology products, consumer goods, electrical equipment, automobiles and automotive parts, industrial products, and research results throughout China;

Whereas such widespread piracy and counterfeiting in China harms not only the economic development of China but also the economic and legal interests of United States business enterprises that sell their products or services in China, whether or not these United States business enterprises have invested in China or ever will invest in China;

Whereas United States losses due to the piracy of copyrighted materials in China is estimated to exceed \$1,800,000,000 annually and counterfeited products to account for 15 to 20 percent of all products made in China, approximately 8 percent of the country's gross national product;

Whereas the market value of counterfeit goods in China is between \$19,000,000,000 and \$24,000,000,000 annually, causing enormous losses for intellectual property rights holders worldwide;

Whereas more than 60 percent of all goods imported into the United States that infringe intellectual property rights and are seized by the Bureau of Customs and Border Protection of the Department of Homeland Security originate in China;

Whereas the export of pirated or counterfeit goods from China to third country markets causes economic losses to United States and other foreign producers of patented, trademarked, and copyrighted products competing for market share in those third country markets;

Whereas, according to the United States Trade Representative, current criminal laws and enforcement mechanisms for intellectual property rights in China by administrative authorities, criminal prosecutions, and civil actions for

monetary damages have not effectively addressed widespread counterfeiting and piracy;

Whereas administrative authorities in China rarely forward an administrative case relating to intellectual property rights violations to the appropriate criminal justice authorities for criminal investigation and prosecution;

Whereas China currently has high criminal liability thresholds for infringements of intellectual property rights, with an unreasonable proof-of-sale requirement totaling approximately \$24,100 for business enterprises and \$6,030 for individuals (according to current exchange rates) that makes criminal prosecution against those enterprises or individuals that violate intellectual property rights extremely difficult;

Whereas seizures and fines imposed by Chinese authorities for intellectual property rights violations are perceived by the violators to be a cost of doing business and such violators are usually able to resume their operations without much difficulty;

Whereas China has the second largest number of Internet users in the world, it still has not acceded to the 1996 World Intellectual Property Organization (WIPO) Internet-related treaties that reflect international norms for providing copyright protection over the Internet;

Whereas China's market access barriers for United States and other foreign cultural products such as movies, music, and books stops or slows the legal entry of these legitimate products into China, in turn increasing the demand for pirated products;

Whereas in the United States Trade Representative's "Special 301" Report for 2003, the implementation by China

of the 1995 bilateral agreement with the United States on the protection of intellectual property rights is subject to monitoring under section 306 of the Trade Act of 1974 (19 U.S.C. 2416); and

Whereas the United States Trade Representative is currently preparing the “Special 301” Report for 2004, to be made public on April 30, 2004: Now, therefore, be it

1       *Resolved*, That the House of Representatives—

2               (1) commends the Government of the People’s  
3       Republic of China for the steps it has taken to im-  
4       prove its legal framework for intellectual property  
5       rights protection and for efforts to bring itself to-  
6       ward compliance with international standards for in-  
7       tellectual property rights established by the World  
8       Trade Organization (WTO);

9               (2) recognizes, despite the steps referred to in  
10      paragraph (1), the continuing existence of wide-  
11      spread intellectual property rights violations in  
12      China and encourages the Chinese Government to  
13      take further and immediate steps to improve en-  
14      forcement of such rights;

15              (3) urges the Chinese Government to undertake  
16      a coordinated nationwide intellectual property rights  
17      enforcement campaign, to eliminate the high crimi-  
18      nal liability threshold and procedural obstacles that  
19      impede the effective use of criminal prosecution in  
20      addressing intellectual property rights violations, to

1 increase the criminal penalties provided for in its  
2 laws and regulations, and to vigorously pursue coun-  
3 terfeiting and piracy cases;

4 (4) recommends that the Chinese Government  
5 implement more effective customs and border meas-  
6 ures to prevent the massive exportation of pirated  
7 goods into the United States and other countries;

8 (5) encourages the Chinese Government to fully  
9 and comprehensively implement a legal framework  
10 and effective enforcement mechanisms that would  
11 protect not only intellectual property rights held by  
12 United States and foreign business enterprises with  
13 or without investments in China, but also Chinese  
14 intellectual property rights holders, which is crucial  
15 to China's own economic development and techno-  
16 logical advancement;

17 (6) urges the Chinese Government to give  
18 greater market access to the foreign producers of le-  
19 gitimate products such as films and other audio-vis-  
20 ual products in order to reduce demand for and  
21 prevalence of pirated and counterfeit goods in their  
22 absence;

23 (7) calls upon the Chinese Government to  
24 promptly accede to the 1996 World Intellectual  
25 property Organization (WIPO) Internet-related trea-

1       ties and harmonize its regulations and implementing  
2       rules with the treaties fully; and  
3               (8) will continue to monitor closely and work  
4       with the Administration to encourage China's efforts  
5       to bring its framework of laws, regulations and im-  
6       plementing rules into compliance with the Agree-  
7       ment on Trade-Related Aspects of Intellectual Prop-  
8       erty Rights (TRIPS Agreement) and to create and  
9       maintain effective intellectual property rights en-  
10      forcement mechanisms capable of deterring counter-  
11      feiting and piracy activities.

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